

JOHN J. HOFFMAN
ACTING ATTORNEY GENERAL OF NEW JERSEY
124 Halsey Street
P.O. Box 45029
Newark, NJ 07101

FILED

DEC 17 2013

**New Jersey State Board of
Massage and Bodywork
Therapy Examiners**

STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
BOARD OF MASSAGE AND BODYWORK
THERAPY

IN THE MATTER OF THE
APPLICATION OF

ERIC RODRIGUEZ

TO PRACTICE MASSAGE AND
BODYWORK THERAPY IN THE
STATE OF NEW JERSEY

Administrative Action

FINAL ORDER OF
DENIAL OF LICENSURE

This matter was opened to the Board of Massage and Bodywork Therapy (the Board) upon receipt of information which the Board has reviewed and the following preliminary of fact and conclusions of law are made:

FINDINGS OF FACT

1. Respondent, Eric Rodriguez, submitted an application for licensure by the Board in which he indicated that he had never been arrested or charged with any crime or offense, and had never been convicted of any crime or offense.

2. Respondent underwent a criminal history background

check which indicated an arrest in 2004 for possession of marijuana, which resulted in a conditional discharge; an arrest in 2006 which resulted in a conviction for possession of marijuana; and charges brought in 2007 against Respondent while he was in the Armed Forces which resulted in a conviction for a marijuana-related offense, and for unauthorized absence. Respondent was sentenced to seven months confinement and a bad-conduct discharge.

3. Respondent explained that he had not indicated the prior arrests or convictions on his application because he did not consider himself a criminal or a danger to anyone. He justified the conduct that led to his court martial as resulting from his having joined the United States Marines in the expectation that he would serve as a truck mechanic, but instead he was ordered to go to war. Mr. Rodriguez stated: "[B]ased on my moral values not to kill was my main reason for deserting the Marine Corp. [sic]"

CONCLUSION OF LAW

1. Respondent's failure to disclose three arrests and two convictions on his application constitutes misrepresentation in violation of N.J.S.A. 45:1-21(b).

Based on the foregoing findings and conclusion of law, a Provisional Order of Denial of Licensure was issued on October 4, 2013, provisionally denying Respondent's application for

licensure as a massage and bodywork therapist in the State of New Jersey for at least one year, and a copy was forwarded to Respondent by means of both regular and certified mail to his address of record. The Provisional Order was subject to finalization by the Board at 5:00 p.m. on the 30th business day following entry unless Respondent requested a modification or dismissal of the stated Findings of Fact or Conclusions of Law by submitting a written request for modification or dismissal setting forth in writing any and all reasons why said findings and conclusions should be modified or dismissed and submitting any and all documents or other written evidence supporting Respondent's request for consideration and reasons therefor.

The Respondent submitted a letter from himself and a character reference from a licensed massage therapist with whom he worked for Board consideration. Respondent asserted that he had gotten confused and had not considered going to the police station and paying a fine to constitute an arrest. He claimed also that he had not believed his incarceration while in the military to pertain to his civilian life. Respondent requested that the Board not only allow him to become licensed, but also that the Board keep his criminal record confidential. His co-worker's character reference attested to Respondent's skills, commitment and perseverance, and his need to financially support his mother and nephews.

By letter to the Board dated November 26, 2013, Susan Carboni, Deputy Attorney General, replied to Respondent's submission by stressing that Respondent's self-serving opinions with regard to the seriousness or relevance of his past criminal acts fail to alter the Board's findings of fact. Nor do they undermine the Board's legal conclusion that Respondent's dishonesty on his application is ample reason for its denial, especially in consideration of its relatively lenient one-year period of ineligibility.

Respondent's submissions and the reply thereto were reviewed by the Board. The Board determined that further proceedings were not necessary, and that no discrepancies of material fact had been raised.

ACCORDINGLY,

IT IS on this 17th DAY of December, 2013,

ORDERED that:

1. Respondent's application for licensure as a massage and bodywork therapist in New Jersey is hereby denied. The Board will not entertain any subsequent application for licensure from Respondent for a period of one year from the entry of this Order.

NEW JERSEY STATE BOARD OF
MASSAGE AND BODYWORK THERAPY

By:



Deborah Overholt
Chairperson